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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,904	02/11/2004	Steven M. Page		3071
7590		06/24/2005		
Mark E. Wiemelt 10 S. LaSalle St., Ste. 3300 Chicago, IL 60603			EXAMINER BOMBERG, KENNETH	
			ART UNIT 3754	PAPER NUMBER

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/776,904

Applicant(s)

PAGE, STEVEN M.

Examiner

Kenneth Bomberg

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-11-04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horst (US D468,601) in view of Childers (US 4,957,225).

Horst teaches of a caulk tube extension (replacement extension tip) having a tube containing a first segment and a second segment, where the first segment extends from an open attaching end, and the second segment is integrally attached to the first segment and extends to an open dispensing end, and the longitudinal axis of the first segment is oriented at an angle to the longitudinal axis of the second segment substantially according to the claims (see Figs. 1,4, and 7). Horst does not explicitly teach of means for removable attachment to the spout of a caulk canister for receiving caulking compound therefrom.

Childers, in a caulk tube extension (10), explicitly teaches of means for removable attachment to the spout of a caulk canister as a plurality of threads (28) disposed circumferentially on the interior of an open attaching means (40) to secure an tube extension to a cut caulking tube.

It would have been obvious to one having ordinary skill in the art to have incorporated the plurality of threads (28) of Childers on the caulk tube extension of Horst in order to firmly secure the tube extension on to the caulk tube as taught by Childers.

In Reference to Claim 3

The particular angle is not disclosed by Horst, however, as the angle would be selected to optimize the use of the device for a particular application, the particular angle constitutes a design choice to be determined by the desired use of the device.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horst (US D468,601) in view of Childers (US 4,957,225) as applied to claim 1 above, and further in view of O'Sullivan (US 5,249,716) and Devlin et al. (US 1,934,045).

Horst (US D468,601) and Childers (US 4,957,225) suggest a caulk tube extension substantially according to claim 2, but fail to teach of the device being formed of high density polyethylene, or the hex nut integrally connected and disposed around the circumference. Instead, Horst discloses the device being made of "metal but possibly also hard plastics or the like" (column 4, lines 40-42) and a "knurled or otherwise roughened" flange (column 5, lines 44-48) to more easily grip the tip.

O'Sullivan explicitly teaches that it is known in the art to make a caulk tube extension (90) form high density polyethylene (see column 3, lines 5-8). Given the teaching of Horst to use a hard plastic material, it would have been obvious to one having ordinary skill in the art to have selected high density polyethylene since O'Sullivan

explicitly teaches it is known suitable and desirable a caulk tube extension construction material.

Devlin et al. explicitly teaches that it is known in the art to provide a nozzle tube extension (5) with a head (12), which may be of any desired form, that is, round, hexagonal or knurled or otherwise arranged for a comfortable finger grip so it may be readily unscrewed from the threaded part (3) of the tube if desired (page 2, lines 45-49). Given the teaching of Horst to provide the caulking tip (10) with an enlarged flange or projection (40) which is knurled *or otherwise roughened* to permit the user to more easily grip the caulking tip (10) and thread it into place on the nozzle (column 5, lines 44-48), it would have been obvious to one having ordinary skill in the art to substituted a hex nut for a knurled surface since Devlin et al. explicitly teaches they are known suitable and desirable a substitutes for each other.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art listed on the attached Notice of Reference Cited have been included because they show caulk tube extension tips having various structures disclosed by applicant.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Bomberg whose telephone number is 571-272-4922. The examiner can normally be reached on Monday, Tuesday, Thursday and alternative Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.B.



KENNETH BOMBERG  
PRIMARY EXAMINER